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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 09/913,664 | 08/17/2001 | Denise L. Faustman | DLF-002.1P | 4530 |
| 7590 | 08/27/2004 | | | |
| Leon R Yankwich | | | EXAMINER | |
| Yankwich & Associates | | | | AFREMOVA, VERA |
| 201 BROADWAY | | | ART UNIT | PAPER NUMBER |
| Cambridge, MA 02139 | | | | 1651 |

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------|----------------------------------|-------------------------|--|
| Advisory Action | Application No. | Applicant(s) | |
| | 09/913,664 | FAUSTMAN, DENISE L. | |
| | Examiner Vera Afremova | Art Unit 1651 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires _____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on 24 March 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-14 and 16-23.

Claim(s) withdrawn from consideration: none.

8. The drawing correction filed on _____ is a)a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: _____.


VERA AFREMOVA
PRIMARY EXAMINE

Attachment to Advisory Action

The declaration under 1.132 by Denise L. Faustman filed on 3/24/2004 has been entered and considered but does not overcome the rejections of record because the scope of comparative data presented does not commensurate with the scope of the claims. For example: the presented results are related to the effects of the prior art toxic substances and enzymes on viability of the T cell suspensions (tables 1-4). Yet, the instant claims are not limited to the use of T cell suspensions. The comparatives data in the declaration are presented and/or argued for the cellular materials different from the prior art cellular materials. The cited prior art cellular materials are tissues including skin tissues that are within the scope of the instant claims Thus, the rejection(s) based on the prior art of record is considered to be proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (571) 272-0914. The examiner can normally be reached from Monday to Friday from 9.30 am to 6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached at (571) 272-0926.

The fax phone number for the TC 1600 where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Vera Afremova

AU 1651

August 24, 2004


VERA AFREMOVA
PRIMARY EXAMINER